IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 771 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ORIENTAL INSURANCE CO. LTD

Versus

HARIKALBEN W/O OF VIRSING HARKAHSING THAPA

Appearance:
MR RK MISHRA for Petitioner No. 1
..... for Respondent No. 1-6

CORAM : MR.JUSTICE N.G.NANDI
and
MR.JUSTICE J.R.VORA

Date of decision: 18/04/2002

ORAL JUDGEMENT (Per : MR.JUSTICE N.G.NANDI)

Heard Mr. R.K. Mishra, learned Advocate for the

appellant Insurance Company.

1. This Appeal is directed against the order passed under Section 140 of the Motor Vehicles Act whereby the Tribunal directed the Insurance Company to pay the statutory amount. It is submitted by Mr. Mishra that interest of the Insurance Company be protected and that the respondent claimant be directed to file an undertaking to the effect that the claimant will not abandon the claim petition nor claimant be permitted to withdraw the claim petition after withdrawing the amount awarded by the impugned award.

2. The apprehension of the appellant is well founded and in order to protect the interest of the Insurance Company, it is necessary to direct the respondent claimant to file an undertaking before the Tribunal within four weeks of the service of the order on the claimant to the effect that the claimant shall not abandon the main claim petition nor he shall withdraw the claim petition and will not get the claim petition dismissed in default or for want of prosecution by willfully remaining absent or for any other cause, and that the claimant shall obtain a decision on merits in the petition under Section 166 of the Act.

3. It is stated by Mr.R.K.Mishra that the statutory amount awarded under the impugned award shall be deposited within four weeks from today.

4. The claimant - respondent is accordingly directed to file the undertaking before the Tribunal to the above effect within the time pointed out above. The amount awarded under Section 140 of the Act shall be adjusted against the final compensation, if any.

5. The payment of the amount shall be protecting the interest of the appellant Insurance Company and after the claimant files the undertaking to the above effect before the Tribunal.

6. The amount of Rs.25,000/- deposited by the appellant Insurance Company with the Registry of this Court shall be transmitted to the Tribunal concerned forthwith.

7. In view of the above observations and directions,

the Appeal is dismissed with no order as to costs.

8. In view of the above order, Civil Application No. 2978/2002 does not survive and is disposed of as having become infructuous.

(N.G. Nandi, J.)

(J.R. Vora, J.)

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